

The Insolvency Act 1986

**2.24B****Administrator's progress report**

Name of Company
Ponix Limited

Company number
05043319

In the High Court Leeds District Registry <small>[full name of court]</small>
---

Court case number
70 of 2007

We  
Kevin Roy Mawer  
KPMG LLP  
St James' Square  
Manchester  
M2 6DS  
United Kingdom

Brian Green  
KPMG LLP  
St James' Square  
Manchester  
M2 6DS  
United Kingdom

Administrators of the above company attach a progress report for the period

from	to
19 July 2010	18 January 2011

Signed

  
Joint Administrators

Dated

7 February 2011

**Contact Details**

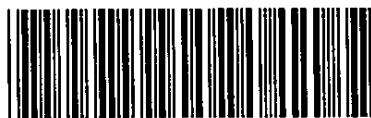
You do not have to give any contact information in the box opposite but if you do it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

Sandila Samee  
KPMG LLP  
St James' Square  
Manchester  
M2 6DS  
United Kingdom  
DX Number DX 724620 Manchester 42

Tel 01612464099  
DX Exchange

When you have completed and signed this form, please send it to the Registrar of Companies at -  
Companies House, Crown Way, Cardiff CF14 3UZ DX 33050 Cardiff

THURSDAY



A30

17/02/2011

136

COMPANIES HOUSE



**Fonix Limited (in Administration)**

**Report to Creditors pursuant  
to Rule 2.47 of the  
Insolvency (Amendment)  
Rules 2003**

KPMG LLP

7 February 2011

*This report contains 11 Pages*

© 2011 KPMG LLP, a UK limited liability partnership, is a subsidiary of KPMG Europe LLP and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative, a Swiss entity. All rights reserved.



*Notice About this Report*

This Report has been prepared by Kevin Roy Mawer and Brian Green, the Joint Administrators of Fonix Limited, solely to comply with their statutory duty to report to members and creditors under the Insolvency Rules 1986, on the progress of the Administration, and for no other purpose. It is not suitable to be relied upon by any other person or for any other purpose, or in any other context.

This Report has not been prepared in contemplation of it being used, and is not suitable to be used, to inform any investment decision in relation to the debt of or any financial interest in Fonix Limited.

Any estimated outcomes for creditors included in this Report are illustrative only and cannot be relied upon as guidance as to the actual outcomes for creditors.

Any person that chooses to rely on this Report for any purpose or in any context other than under the Insolvency Rules 1986 does so at their own risk. To the fullest extent permitted by law, the Joint Administrators do not assume any responsibility and will not accept any liability in respect of this Report to any such person.

Kevin Roy Mawer is authorised to act as an insolvency practitioner by the Institute of Chartered Accountants in England & Wales.

Brian Green is authorised to act as an insolvency practitioner by the Institute of Chartered Accountants in England & Wales.

The appointments of the Joint Administrators are personal to them and, to the fullest extent permitted by law, KPMG LLP does not assume any responsibility and will not accept any liability to any person in respect of this Report or the conduct of the Administration.



## Contents

<b>1</b>	<b>Introduction</b>	<b>1</b>
<b>2</b>	<b>Realisations</b>	<b>1</b>
2.1	Other Realisations	1
<b>3</b>	<b>Costs of Realisation</b>	<b>1</b>
3.1	Legal Fees	1
<b>4</b>	<b>Joint Administrator's Fees</b>	<b>1</b>
<b>5</b>	<b>Progress of the Administration up to 18 January 2011</b>	<b>2</b>
5.1	Extension of the Administration Period	2
5.2	VAT Refund	2
5.3	Investigations	2
<b>6</b>	<b>Creditors</b>	<b>3</b>
6.1	Secured Creditors	3
6.2	Preferential Creditors	3
6.3	Unsecured Creditors	3
<b>7</b>	<b>Outstanding Matters</b>	<b>3</b>
7.1	Matrad Debt	3
7.2	VAT Refund	3
<b>8</b>	<b>Conclusion of the Administration</b>	<b>4</b>
Appendix 1 – Joint Administrators' Receipts and Payments account to 18 January 2011		5
Appendix 2 - Joint Administrators' time costs and expenses to 18 January 2011		6
Appendix 3 - Joint Administrators' charge out rates		6
Appendix 3 - Joint Administrators' charge out rates		7



## **1 Introduction**

Further to my report dated 26 July 2010 I write to provide an update on the progress of the Administration in accordance with Rule 2.47 of the Insolvency (Amendment) Rules 2003

Please find attached my receipts and payments account to 18 January 2011 which shows a cash in hand balance of £21,859.06

This report should be read in conjunction with previous reports and only covers movements in the period 19 July 2010 to 19 January 2011. Please note that all figures referred to in this report, including those on the receipts and payments account, are stated net of VAT.

## **2 Realisations**

### **2.1 Other Realisations**

Bank interest in the sum of £0.10 has been received in this period.

## **3 Costs of Realisation**

### **3.1 Legal Fees**

Fees totalling £411.25 were paid to Keeble Hawson LLP in this period for legal advice given during the course of the administration.

## **4 Joint Administrator's Fees**

To date time costs incurred on this case total £543,928.70 representing 1,808 hours at an average rate of £300.80. Pursuant to Statement of Insolvency Practice 9, a detailed analysis of these costs is attached at Appendix 2.



The Joint Administrators have instructed KPMG LLP RRG, Forensics Tax, VAT and pensions specialists to carry out activities in the Administration. The charge out rates shown in Appendix 3 are also applicable to these departments within KPMG LLP.

The Joint Administrators have drawn fees of £50,000 in a prior period.

A creditors' guide to fees can be found at

<https://www.r3.org.uk/uploads/sip/INTERIM%20SIP9%20April%202010.pdf>

However, if you are unable to access this guide and would like a copy please contact Sandila Samee.

## **5 Progress of the Administration up to 18 January 2011**

### **5.1 Extension of the Administration Period**

The Administration has been extended to 18 July 2012 with the consent of the court pursuant to paragraph 76(2)(a) of Schedule B1 of the Insolvency Act 1986. This is to allow several outstanding matters to be completed, as detailed in paragraph 7 below.

It is anticipated that once the outstanding matters have been finalised, funds in hand will be used to settle outstanding costs in the Administration. Following this the Joint Administrators will consider the most appropriate exit route from the Administration in line with the initial proposals.

### **5.2 VAT Refund**

As previously advised, at the date of my appointment, the principal asset of the Company was a VAT refund due from HMRC of circa £9m. I continue, with the assistance of the directors and my legal advisors, to challenge the decision of HMRC to disallow the input tax in relation to the VAT reclaims and thereby recover some or all of the VAT. Further information on the progress of this matter is given in paragraph 7 below.

### **5.3 Investigations**

As previously reported and in accordance with my statutory duties, I have submitted my report on the conduct of the directors to the Department of Trade and Industry.

My investigations into the Company's affairs are ongoing and accordingly it is not in the best interests of creditors to disclose details of these at this time.



## **6 Creditors**

### **6.1 Secured Creditors**

As previously reported SYIDF have a fixed and floating charge over the assets of the Company

To date, pending developments as regards the potential VAT refund no distributions have been made to SYIDF under its security

### **6.2 Preferential Creditors**

As previously reported the recovery to the preferential creditors remains uncertain and is entirely dependent on the extent of realisations from the Matrad debt and outstanding VAT refund

### **6.3 Unsecured Creditors**

At present it is still anticipated that there will be insufficient funds available to enable a distribution to be paid to the unsecured creditor, as a distribution is entirely dependent on any significant recoveries from the VAT debt

## **7 Outstanding Matters**

### **7.1 Matrad Debt**

As previously reported at the time of the appointment of the Joint Administrators Matrad Limited was a debtor of the Company in the sum of £524,000. Matrad Limited subsequently went into administration and is now in liquidation. Realisations from Matrad Limited remain uncertain, however the Joint Administrators continue to monitor the progress of the liquidation.

### **7.2 VAT Refund**

The appeal by the Joint Administrators against the decision of HMRC to disallow the input tax in relation to the VAT claims is proving to be protracted. Directions for the case now require HMRC to serve their supplemental witness statement by November this year with the Joint Administrators then having two months to respond. It would now seem unlikely that a tribunal hearing will be set for a date before early 2011.



In the event that the claim is unsuccessful the Joint Administrators will consider the extent to which the loss of such monies was a result of breaches of duty by the directors and the prospects of recovering such losses

## 8 Conclusion of the Administration

The Joint Administrators' proposals have yet to be fully completed and consequently the Joint Administrators are not in a position to conclude the Administration at this time. The Joint Administrators must deal with the following issues before they pursue an exit of the Administration:

- Receipt of a possible dividend from the liquidation of Matrad Limited
- Pursuing the recovery of the VAT debt.
- Possible distributions to secured and preferential creditors.
- Conclusion of other investigation matters.
- The submission of final tax and VAT returns
- The settlement of outstanding costs including the Joint Administrators' fees

If you have any queries please do not hesitate to contact Sandila Samee on + 44 (0) 161 246 4099

Yours Faithfully

K R Mawer  
*Joint Administrator*





*Fonix Limited (in Administration)*  
*Report to Creditors pursuant to Rule 2.47 of the Insolvency (Amendment) Rules 2003*  
*KPMG LLP*  
*7 February 2011*

## Appendix 1 – Joint Administrators' Receipts and Payments account to 18 January 2011

Fonix Limited (In Administration) Administrators' Abstract of Receipts & Payments		
Statement of Affairs	From 19.07.2010 To 18.01.2011	From 19.01.2007 To 18.01.2011
ASSET REALISATIONS		
Furniture & equipment	NIL	2,150.00
Patents received	NIL	162.71
Cash at bank	NIL	26,698.91
Rents Received	NIL	957.09
	<u>NIL</u>	<u>29,968.62</u>
OTHER REALISATIONS		
Bank interest gross	6.10	1,502.71
Contribution to Meeting Costs	NIL	9,579.00
Contribution to Fees	NIL	50,000.00
Supplier refunds	NIL	4,169.95
	<u>6.10</u>	<u>65,472.64</u>
COST OF REALISATIONS		
Administrators' fees	NIL	80,000.00
	<u>NIL</u>	<u>(80,000.00)</u>
Cost of Realisation		
Agents' Valuers Expenses	NIL	1,250.19
	<u>NIL</u>	<u>(1,250.19)</u>
COST OF REALISATIONS		
Agents' Valuers' fee	NIL	2,240.99
Professional fees	NIL	82.71
Legal fees	411.25	12,489.25
Legal expense	NIL	4,645.56
Corporation tax	NIL	597.92
Corporation tax payable	NIL	7.08
Statutory advertising	NIL	122.48
Insurance of assets	NIL	255.91
	<u>(411.25)</u>	<u>(21,679.01)</u>
UNSECURED CREDITORS		
(1,888,195.53) Trade Expense	NIL	NIL
	<u>NIL</u>	<u>NIL</u>
<u>(1,888,195.53)</u>	<u>(411.15)</u>	<u>21,859.06</u>
REPRESENTED BY		
Flowers charge current		21,859.06
		<u>21,859.06</u>

**RECEIPTS**

£

Brought forward from previous Abstract (if Any) 95,256.38

Bank interest gross 0.40

Floating charge VAT control 1,382.41

Delete as  
 appropriate

Carried forward to  
 \* continuation sheet - next abstract

96,638.89

**PAYMENTS**

£

Brought forward from previous Abstract (if Any) 74,368.58

Legal fees - 411.25

\* Delete as  
 appropriate

Carried forward to  
 \* continuation sheet - next abstract

74,779.83

Note: The receipts and payments must be verified by adding up the total for each side and then totalling carried over from one abstract to another without any intermediate balancing. Only a difference in the total payments or total receipts or total carried over from one abstract to another will be detected.

**RECEIPTS**

£

Brought forward from previous Abstract (if Any)

95,256.51

Bank interest gross

0.07

<sup>1</sup> Delete as appropriate

Carried forward to  
<sup>2</sup> continuation sheet - next abstract

95,256.58

**PAYMENTS**

£

Brought forward from previous Abstract (if Any)

71,253.58

Corporation tax

167.92

Corporation tax payable

7.08

<sup>3</sup> Delete as appropriate

Carried forward to  
 continuation sheet - next abstract

71,268.58

٤

95 256 20

011

US 25(31)

1

7425358

71253-58

2

08 281 78

142

Continued forward to  
 continuation sheet next abstract

195 256, 261

## 2

73 963 58

2000

Carried forward to  
continuation sheet next to three

7125358



**Fonix Limited (in Administration)**  
**Report to Creditors pursuant to Rule 2.47 of the Insolvency (Amendment) Rules 2003**  
**KPMG LLP**  
**7 February 2011**

## Appendix 2 - Joint Administrators' time costs and expenses to 18 January 2011

Fonix Limited

Reporting period 19 July 2010 to 18 January 2011

SIP 96 compliance fees worksheet

Consolidated time spent by grade	Partner/Director	Management	Administration	Support	Total Hours	Total Cost £	Average Rate £
<b>Activities</b>							
<b>Administration &amp; planning</b>							
Admission to insolvency	0.00	5.00	1.00	0.00	6.00	1,650.00	275.00
Statement of Affairs	0.00	0.00	1.00	5.00	6.00	1,650.00	275.00
General documents	0.00	0.00	0.10	0.00	0.10	27.50	275.00
Checklist compliance	0.00	0.00	0.00	2.00	2.00	550.00	275.00
Books and records	1.00	1.00	0.00	0.00	2.00	550.00	275.00
General administration	0.00	0.00	0.60	0.00	0.60	165.00	275.00
Provisional dividend	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Post appointment CT	0.00	2.00	4.00	1.00	7.00	1,925.00	275.00
	1.00	8.00	5.60	6.00	20.60	5,702.50	276.82
<b>Investigation</b>							
CDDA and its proceedings	0.00	0.00	3.00	0.00	3.00	825.00	275.00
Pre appointment investigations	5.00	0.00	0.00	0.00	5.00	1,375.00	275.00
	5.00	0.00	3.00	0.00	8.00	2,200.00	275.00
<b>Creditors</b>							
Report to creditors	0.00	2.00	0.00	0.00	2.00	550.00	275.00
Legal costs	5.00	2.00	0.00	0.00	7.00	1,925.00	275.00
	5.00	2.00	0.00	0.00	7.00	1,925.00	275.00
<b>Total hours cost</b>	1.00	10.00	8.60	6.00	25.60	6,902.50	269.63

Fee drawn	Hours Cost to date
B	776.15
In the period	10.00
C	806.25

**Note:**

All staff who have worked on this assignment including cashiers and clerical staff are charged the direct costs of the assignment and a fee included in the hourly rate per hour. The cost of staff employed in central administration time is charged directly to the assignment but reflected in the general fee structure.



### Appendix 3 - Joint Administrators' charge out rates

	Restructuring £	Tax £	VAT £	Pensions £
Partner	535	595	900	745
Director	460	535	805	670
Senior Manager	425	375-470	565-705	470-590
Manager	345	255-305	385-455	320-385
Administrator	240	185-220	280-330	235-275
Assistant Administrator	175	85-185	125-245	110-235

	Hourly rate from	
	1 April 2009 to 30 September 2010	1 October 2010
	£	£
Partner	515	535
Director	440	460
Senior Manager	405	425
Manager	320	345
Senior Administrator	225	240
Administrator	165	175
Support	105	110